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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,586	12/27/2000	Michael Kozuch	042390.P9769	1643
7590	02/09/2006		EXAMINER	
Marina Portnova BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP Seventh Floor 12400 Wilshire Boulevard Los Angeles, CA 90025-1026			ALI, SYED J	
			ART UNIT	PAPER NUMBER
			2195	
DATE MAILED: 02/09/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/752,586	KOZUCH ET AL.	
	Examiner	Art Unit	
	Syed J. Ali	2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 November 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-7, 11-23 and 27-31 is/are rejected.
- 7) Claim(s) 8-10 and 24-26 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. This office action is in response to the amendment filed November 14, 2005.

Claims 1-31 are presented for examination.

2. The text of those sections of Title 35, U.S. code not included in this office action can be found in a prior office action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. **Claims 1-13 and 29-31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.**

5. As per claims 1 and 29, the claims have been amended to indicate that a “virtual machine” monitors the utilization of platform devices. However, the other independent claims, consistent with the specification, indicate that a “virtual machine monitor” performs this monitoring. Although there are similarities between a “virtual machine” and a “virtual machine monitor,” they are not quite equivalents. It is well known that a virtual machine is a layer of abstraction that lies on top of hardware and “virtualizes”

system resources. On the other hand, a “virtual machine” is like an emulator, appearing to the machine as a separate computing entity.

6. It appears that claims 1 and 29 should have been amended to recite “a virtual machine monitor for monitoring...,” which would describe the invention in a manner consistent with the specification and known techniques for implementing virtual machine monitors. This is the interpretation that will be given to the claims for purposes of the present examination. As per claims 2-13 and 30-31, they are rejected for at least the same reasons as their parent claims, as they fail to present any limitations that resolve the deficiencies of the claims from which they depend.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. **Claims 1-7, 11-23, and 27-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Marisetty (USPN 5,590,342).**

9. As per claim 1, Marisetty teaches the invention as claimed, including a method of providing power management, the method comprising:

a virtual machine monitor for monitoring utilization of a platform device by one or more other virtual machines (col. 7 lines 31-43, 50-53); and

managing power consumption of the platform device based on the monitoring (col. 6 lines 42-49; col. 7 lines 53-59).

10. As per claim 2, Marisetty teaches the invention as claimed, including the method of claim 1 wherein monitoring further comprises determining resource allocation of the platform device to each of said one or more virtual machines when each of said one or more virtual machines is either started or stopped (col. 7 lines 35-40; col. 8 lines 41-60).

11. As per claim 3, Marisetty teaches the invention as claimed, including the method of claim 1 wherein monitoring further comprises:

identifying a change in operation of said one or more virtual machines and determining resource allocation of the platform device to said one or more virtual machine based on the change in operation (col. 8 lines 47-60).

12. As per claim 4, Marisetty teaches the invention as claimed, including the method of claim 1 further comprising notifying a guest operating system before modifying a power consumption state of the platform device (col. 12 lines 36-49).

13. As per claims 5-6, Marisetty teaches the invention as claimed, including the method of claim 1 wherein the platform device is either a power-manageable power device (col. 6 lines 49-52) or a non-power-manageable platform device (col. 6 lines 53-55).

14. As per claim 7, Marisetty teaches the invention as claimed, including the method of claim 1 further comprising:

identifying a decrease in power available to a computing platform (col. 6 lines 42-45;

observing that one of said one or more virtual machines is quiescent (col. 7 lines 50-59);

saving the state of the one of said one or more virtual machines (col. 2 lines 12-20; col. 8 lines 4-8); and

stopping the one of said one or more virtual machines to free resources allocated to the one of said one or more virtual machines (col. 2 lines 12-20; col. 8 lines 4-30).

15. As per claim 11, Marisetty teaches the invention as claimed, including the method of claim 7 further comprising reconstructing the state of said one or more virtual machines upon receiving a resource request from said one or more virtual machines (col. 8 lines 40-43).

16. As per claim 12, Marisetty teaches the invention as claimed, including the method of claim 1 wherein any of said one or more virtual machines runs a guest operating system that lacks the capacity to handle power-management signals sent by a computing platform (col. 6 lines 40-49, 53-55).

17. As per claim 13, Marisetty teaches the invention as claimed, including the method of claim 12 further comprising:

intercepting a power-management signal sent by the computing platform to the guest operating system (col. 8 lines 36-39); and

preserving the state of a corresponding virtual machine if the power-management signal indicates that the computing platform will be powered down (col. 8 lines 39-40).

18. As per claims 14-16, Marisetty teaches the invention as claimed, including a system comprising a computing platform to implement the method of claims 1-3 (Fig. 1).

19. As per claims 17-23 and 27-28, Marisetty teaches the invention as claimed, including an apparatus for performing the method of claims 1-7 and 12-13 (Fig. 1).

20. As per claims 29-31, Marisetty teaches the invention as claimed, including a computer readable medium that provides instructions, which when executed on a processor, cause said processor to perform operations comprising the method of claims 1, 7, and 13 (Fig. 1).

Allowable Subject Matter

21. **Claims 8-10 and 24-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.**

Conclusion

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Syed J. Ali whose telephone number is (571) 272-3769. The examiner can normally be reached on Mon-Fri 8-5:30, 2nd Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai T. An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Syed Ali
February 3, 2006



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